IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 3223 of 2005

Between:

Valakatla Veeraiah S/o.Pochalu
R/o.Metpally Village, Shankarapatnam Mandal, Karimnagar

District.

..... PETITIONER

AND

1. A.P.State Financial Corporation, Karimnagar rep. by its Branch Manager, Opp. Collectorate Complex

   Karimnagar.
2. Badugu Janardhan S/o.Shekaraiah
   R/o.Bonapally Village, Huzurabad Mandal, Karimnagar Dist.
3. Badugu Damodar S/o.Shekaraiah
   R/o.Bonapally Village, Huzurabad Mandal, Karimnagar Dist.
4. M/s Vingnaneshwara Rice Mill, a partnership Firm, rep. by it

   Partner, V.Venkataramana, S/o.Ramesham
   R/o.Amudalapally Village, Shankarapatnam Mandal

   Karimnagar Dist.
5. Bhoopathy Sadanandam S/o.Veeraiah
   R/o.Venkatrampally Village, Huzuarabad Mandal

   Karimnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, writ or order, one in the nature of Mandamus a) declaring the auction held on 19.7.2001 by the respondent No.1 in favour of the respondent Nos. 4 and 5 and the same has been accepted by the respondent No.1 on 20-12-2001 and

the registration of the Sale deed done on 9.7.2002 in so far as the petitioners property is concerned i.e., an area of 965.92 sq yards equivalent to 811.37 sq. meters carved out of open land of M/s Shailaja Modern Rice Mills out of 1 acre, 2 guntas in survey No.38/B, situated at Bornapally Village, Huzurabad Mandal, Karimnagar District as illegal, void.

Counsel for the Petitioner:MR.M.RAMA RAO

Counsel for the Respondent No.1: MS.Y.N.LOHITA (SC FOR AP FINANCE CORP)

Counsel for the Respondent Nos.2 to 5:

The Court at the admission stage made the following O R D E R:

The case of the petitioner is that he purchased the land to an extent of 965.92 sq yards equivalent to 811.37 sq mts in Sy.No.38/B, situated at Bornapply village, Huzurabad Mandal, Karimnagar, under a registered sale deed dated 16.02.2002 from respondent Nos.2 and 3, who mortgaged the property in favour of respondent No.1. As the respondent Nos.2 and 3 committed default, the first respondent auctioned the property in question on 19.07.2001 and respondent Nos.4 and 5 were the auction purchasers. Challenging the auction held by the first respondent and the registration of the sale deed dated 09.07.2002, the present writ petition is filed.

Learned Counsel for the petitioner contended that since the date of purchase, he is in continuous possession of the property in question and without issuing any notice, the first respondent conducted auction of the property. He further contended that the petitioner is a bona fide purchaser and the respondent Nos. 4 and 5 in collusion with the first respondent in order to deprive the rights of the petitioner conducted the auction of the property and, therefore, prays to set aside the same.

On the other hand, learned standing counsel appearing for the first respondent contended that it is a dispute between the private parties and that the petitioner has to prove that he is a bona fide purchaser before the appropriate forum and not before this Court.

According to the petitioner, he is in possession of the property in question by virtue of the sale deed dated 16.02.2002 and by that time, the said property was mortgaged to the first respondent. Whether the petitioner is a bona fide purchaser or not and whether he is in possession of the property on the date of notification or not are the questions to be gone into by the competent Court.

The dispute between the parties and the rights of the petitioner have to be determined by the competent civil Court, but not by this Court. Though a vague allegation was made that without proper notification, the auction was held, but it is not specifically stated that auction was conducted contrary to the rules and regulations of the State Financial Act.

Hence, the writ petition is dismissed at the stage of admission. Whether the petitioner is in possession or not is required to be established. Therefore, no notice is required to be given to the petitioner. The petitioner is at liberty to pursue his remedies in the pending suit. No costs.

23.02.2005

usd

To

1. The Branch Manager, A.P.State Financial Corporation, Karimnagar, Opp. Collectorate Complex Karimnagar.

2. Two CD copies.

3. 1 CC to MR RAMA RAO (OUT)